REMARKS/ARGUMENTS

Pending claims 1, 7, 8 and 10-25 are provisionally rejected under 35 USC §101 as claiming the same invention as that of claims 1-40 in Applicant's co-pending Application No. 10/608, 290. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

As a result of an appeal filed by Applicant in co-pending Application No. 10/608, 290, rejected claims 1-3 and 11-40 have been found to be patentable by the Board of Patent Appeals and Interferences. Pending claims 4-10 had previously been found to be patentable by the Examiner. Thus, all of pending claims 1-40 in Applicant's co-pending Application No. 10/608, 290 have been found to be patentable.

Claims 1-40 in Applicant's co-pending Application No. 10/608, 290 were initially provisionally rejected on the basis of double patenting in view of claims 1-26 which were then pending in the present application. Applicant responded to this double patenting rejection in co-pending Application No. 10/608, 290 by pointing out various differences between the two embodiments of Applicant's adjustable pipe repair clamp installation tool disclosed and claimed in the present application and disclosed and claimed in Applicant's co-pending Application No. 10/608, 290. In fact, the two adjustable pipe repair clamp installation tools disclosed and claimed in the subject application and in the Applicant's co-pending Application No. 10/608, 290 are opposite in the manner in which they engage a pipe repair clamp and securely maintain it tightly in position about the outer surface of the pipe while the repair clamp is secured in position about the pipe in a sealed manner. In response to Applicant's explanation of the differences between the two pipe repair clamp installation tools disclosed in the present application and in

between the two pipe repair clamp installation tools disclosed in the present application and in Applicant's co-pending Application No. 10/608, 290, the double patenting rejection was withdrawn by the Examiner, who is also the Examiner in the present application. Therefore, the present double patenting rejection in this application should be withdrawn and pending claims 1,7,8 and 10-25 found in condition for allowance.

Applicant's response to the double patenting rejection filed in co-pending Application No. 10/608, 290 is the same as the explanation set forth in the previously filed Amendment C in this application also filed in response to a double patenting rejection. Following filing of the response in co-pending Application No. 10/680,290, the Examiners withdrew the double patenting rejection. This explanation is provided in the following paragraphs for the record.

As described in previously filed Amendment B in this application, clasp 168 recited in pending claim 1 is coupled to a body portion 152 of the apparatus adjacent a first end thereof. This connection is accomplished by means of a pivot/coupling pin 166 as shown in the figures. Pending claim 1 further recites that the clasp 168 is adapted to engage in outer edge of one of the pipe repair clamp's flanges. Claim 1 also recites that a first end 164a of an arm 164 is pivotally coupled to the body portion 152 of the apparatus at a location intermediate the first and second opposed ends of the body portion of the apparatus. Claim 1 further recites that a second opposed end 164c of arm 164 is adapted for insertion in a aperture in a first edge flange of a pipe repair clamp. This arrangement of the claimed adjustable pipe repair claim installation tool is shown in FIGS. 10-12 of this application.

The apparatus claimed in the aforementioned co-pending application cited by the

application, which figures were attached as Exhibits A-D in Amendment B filed in this application and are also attached to the present amendment to facilitate comparison of the two embodiments of an adjustable pipe repair clamp installation tool which are the subjects of the aforementioned '290 application and the present application.

In the claims of the co-pending '290 application, the clasp 112 which is adapted for engagement with an edge of a repair clamp flange is recited as pivotally coupled to the tool's body portion 102 intermediate the first and second opposed ends thereof, and not adjacent a first end thereof is shown an attached Exhibits A-D. The arm 110 in the co-pending application is claimed as having a first end pivotally coupled to the body portion adjacent a first end thereof, and a second opposed end adapted for insertion in an aperture in an edge flange of the repair clamp is also shown in attached Exhibits A-D. Thus, while the arm and clasp recited in the two sets of claims describe the arm as adapted for insertion in an aperture in a repair clamp's first edge flange and the clasp as adapted for engaging an outer edge of the repair clamp's outer edge flange, the recited positioning in attaching the arm and clasp to the body portion of the repair clamp installation apparatus is reversed in these two sets of claims. These two applications with different sets of claims were filed to secure claim coverage for the embodiment of the invention shown in FIGS. 10-12 of the present application and the alternative embodiment shown in FIGS. 10-16 of the co-pending '290 application cited by the Examiner in the double patenting rejection. Another way to look at these differences between these two embodiments of Applicant's invention is that the arm 164 of the present application includes a hook end 164c adapted for insertion in an aperture in an edge flange of a repair clamp, while the arm 112 in the co-pending application includes an end 112a adapted for engaging a outer edge of an edge flange of the

repair clamp, with both arms attached to the body portion of the apparatus at a location between its two opposed ends. In addition, the claimed clasp 168 in the present application includes a clamp end 168b adapted for engaging an outer edge of a repair clamp edge flange, while the clasp 110 in the co-pending '290 application includes a clamp end 110a adapted for insertion in an aperture in an edge flange of the repair clamp. Thus, the two embodiments disclosed and claimed in this application and the '290 application are of opposite configuration.

These two embodiments were designed by Applicant to accommodate pipe repair clamps of different designs. The pipe repair clamp with which the adjustable installation tool of the present application is intended for use is shown in attached Exhibit E, which is a copy of a brochure describing and illustrating the installation tool of the present invention as well as a pipe repair clamp with which it is intended for use. This type of pipe repair clamp is also shown in FIG. 5 of the present application. The pipe repair clamp shown in Exhibit E includes a pair of spaced edge flanges extending the length of the pipe repair clamp and separated by an elongated, linear slot. In Exhibit E, one edge flange is referred to as a "Receiver Bar", while the other edge flange is referred to as a "Stud Bar". Each of the receiver bar and the stud bar includes a respective "Receiver Bar Slot." As in the pipe repair clamp described in the present application, the pipe repair clamp shown in Exhibit E includes three bolt receiving brackets which each include a pair of spaced ribs and an end portion referred to as a "Washer Plate" having three spaced apertures each adapted to receive a respective coupling bolt. The combination of a nut and washer is shown attached to each of the coupling bolts in Exhibit E, with tightening of the nuts resulting in tight engagement between each of the washers and the washer plate. It is in this manner that the repair clamp's edge flanges are drawn together for securely attaching the pipe

repair clamp to a pipe in a sealed manner. The adjustable pipe repair clamp installation tool of the present invention shown in Exhibit E includes a pivoting arm having a distal end adapted for insertion in an aperture in one of the clamp's edge flanges. The tool's pivoting clasp attached to one end of the tool includes a hook as shown in Exhibit E for engaging an outer edge of the other edge flange of the clamp.

As shown in attached Exhibit A-D, the embodiment of the adjustable pipe repair clamp installation tool disclosed and claimed in the co-pending '290 application is not capable of operating with a pipe repair clamp having a washer plate as shown in Exhibit E. The washer plate shown in the pipe repair clamp of Exhibit E prevents the clamp end 112a of the arm 112 of the installation tool 100 shown in Exhibits A-D from engaging an edge of the clamp's edge flange. Tightening of the three bolts of the pipe repair clamp shown in Exhibit E places the washer plate in engagement with the clamp's coupling brackets as well as with the outer edge of the clamp's receiver bar preventing the tool's hooked clamp end 112a from being able to engage the outer edge of the clamp's edge flange. The adjustable pipe repair clamp installation tool shown in attached Exhibits A-D is note capable of attaching a repair clamp to a pipe where the repair clamp includes a washer plate or other structure covering an outer edge of the clamp's edge flange as shown in Exhibit E. Thus, the adjustable pipe repair clamp installation tool disclosed and claimed in the present application was designed for attaching a pipe repair clamp with which the installation tool of the co-pending '290 could not be used. Because the two embodiments of an adjustable pipe repair clamp installation tool claimed in the '290 application and in the present application differ in structure and operation and are designed for use with different pipe repair clamps, they are not directed to the "same invention" and the double

patenting rejection should be withdrawn.

With this Amendment, all of the pending claims are believed to define patentable subject matter. Therefore, reconsideration and allowance of the pending claims is respectfully solicited.

Respectfully submitted,

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